IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 903 of 2004

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BHARATBHAI KESHUBHAI KOLI

Versus

JAYESHKUMAR B. MUNJPARA

Appearance:

1. Special Civil Application No. 903 of 2004

MR SATYEN B RAWAL for Petitioner No. 1

NOTICE SERVED for Respondent No. 1,2

MS AVANI S MEHTA for Respondent No. 2

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 15/03/2004

ORAL JUDGEMENT

1. Heard the learned advocates.

2. Rule. Learned advocate Mrs. Avni Mehta appearing for the respondent no. 2 waives service of rule.

3. The petitioner seeks to withdraw the amount of interim compensation awarded under Section 140 of the Motor Vehicles Act, 1988 in Motor Accident Claim Petition No. 571 of 2001 pending before the Motor Accident Claims Tribunal, Surendranagar (Main).

4. The petitioner is the claimant in the aforesaid petition. Pending the claim interim compensation of Rs.25,000/- and interest was awarded by order dated 17th March, 2003. The petitioner was allowed to withdraw a sum of Rs.8,708/-, whereas the remaining amount of Rs.20,330/- was ordered to be invested in the bank for a period of five years.

5. The petitioner moved application for withdrawal of the aforesaid amount deposited with the Bank to meet the expenses of his marriage. The said application has been rejected by order dated 19th January, 2004. Feeling aggrieved, the petitioner has preferred the present petition.

6. Learned advocate Mr. Raval has submitted that the petitioner has spent Rs.45,000/- on his marriage. The petitioner, therefore, be permitted to withdraw the aforesaid amount of Rs.20,330/- deposited in the Bank.

7. The petitioner has not produced any evidence that a huge amount of Rs.45,000/- has been spent by him for his marriage. The petitioner has not stated as to how Rs.45,000/- have been spent. However, it may be presumed that some expenses must have been incurred by the petitioner. Therefore, the petitioner is permitted to withdraw Rs.10,000/- from the aforesaid amount of Rs.20,330/- deposited in the Bank.

8. Petition is accordingly allowed. The petitioner may withdraw a sum of Rs.10,000/- from the aforesaid amount of Rs.20,330/- deposited in the Bank. The remaining amount and the accumulated interest shall be reinvested/renewed from the date of withdrawal. The concerned Bank shall remit the aforesaid amount of Rs.10,000/- to the petitioner by A/c. Payee Cheque drawn in the name of the petitioner after identifying the petitioner. Rule is made absolute. The parties shall bear their own costs.

(Ms. R.M. Doshit, J.)

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